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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,193	11/19/2001	Manuel Barbosa	11017-0003	8121

7590 10/03/2002

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/988,193	BARBOSA, MANUEL
	Examiner Lan Nguyen	Art Unit 3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 November 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152) Paper No(s) \_\_\_\_.
- 6) Other: \_\_\_\_\_

STEPHEN P. SCHWARTZ  
PRIMARY EXAMINER  
Part of Serial No. 3

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaneshiro et al.

Re: claim 1, Kaneshiro et al. show a backing plate, as in the present invention, comprising: abutment plate means 3 for resisting braking forces; and shielding plate means 2 for shielding brake components from dust and dirt and reducing noise and vibrations.

Re: claim 2, Kaneshiro discloses in the Abstract that the plate 3 is made out of damped steel.

Re: claim 9, Kaneshiro discloses in the Abstract that the shielding plate 3 is made out of damped steel.

Re: claim 10, the figure shows that the brake assembly is a drum brake.

Re: claim 11, Kaneshiro further shows abutment plate 3.

3. Claims 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Turak et al.

Turak et al. show a backing plate, as in the present invention, comprising: an abutment plate 30 having a first part to be attached to an axle of a vehicle and a second part for resisting braking forces; and a shielding plate 32 for shielding brake components from dust and dirt and reducing noise and vibrations.

Re: claim 7, Turak shows in column 6, lines 22-24, that abutment plate is made out of steel.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneshiro et al. in view of Hansen et al.

Kaneshiro's shielding plate, as discussed in the above rejections of claims 1 and 9, is silent to the structure of the damped steel. Hansen et al. teach the structure of the damped steel in column 3, lines 60-63. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed Kaneshiro's shielding plate with a damped steel such as taught by Hansen; since damped steel which consistent of two outer steel sheets of equal thickness and an inner layer of viscoelastic material is well known for their vibration and noise reduction capability.

6. Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turak et al. in view of Hansen et al.

Re: claims 5 and 8, Turak's backing plate, as discussed in the above rejections of claims 4 and 7, lacks a material of damped steel. Hansen et al. teach the concept of using damped steel to effectively damp vibration and noise in vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a damped steel such as taught by Hansen to construct Turak's backing plate as an alternative material in cases where steel would be needed to provide protection to the brake components while still reducing noise and vibration.

Re: claim 6, Hansen further teaches the structure of the damped steel in column 3, lines 60-63.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kato et al., Pfann et al. and Filderman show other brake assemblies with damped steels.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-305-7687  
for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-306-  
4177.

XLN

XLN  
September 27, 2002

CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER  
*Christopher P. Schwartz*